

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA **FILED**

JUN - 3 2008

William B. Guthrie
Clerk, U.S. District Court

Deputy Clerk

JESSIE E. JAMES,

Petitioner,

v.

STATE OF OKLAHOMA,

Respondent.

Case No. CIV 07-283-RAW-KEW

OPINION AND ORDER

This matter is before the court on the respondent's motion to transfer petitioner's amended habeas corpus petition to the Tenth Circuit Court of Appeals, pursuant to 28 U.S.C. § 2244(b)(3)(A). Petitioner, an inmate currently incarcerated at Joseph Harp Correctional Center in Lexington, Oklahoma, is challenging his convictions in Bryan County District Court Case No. CRF-91-274 for Robbery with a Dangerous Weapon, After Former Conviction of Two or More Felonies, and No. CRF-92-71 for Escape from a Penal Institution, After Former Conviction of Two or More Felonies. He raises the following grounds for relief in his amended petition [Docket #16]:

- I. Denial of effective assistance of counsel.
- II. There is not a weapon, and I did not commit the crime.


The record shows that petitioner previously challenged the same state convictions in this district court in Case No. CIV 97-240-S, raising seven grounds for relief. The court found petitioner was not entitled to relief on the merits of three of his claims, and he was procedurally barred from raising the other four claims. *James v. State of Oklahoma*, No. CIV

97-240-S (E.D. Okla. Sept. 28, 1999).

“Before a second or successive application . . . is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Therefore, this court must transfer the petition to the Tenth Circuit Court of Appeals in the interest of justice pursuant to 28 U.S.C. § 1631 and 28 U.S.C. § 2244(b)(3)(A). *See Coleman v. United States*, 106 F.3d 339, 341 (10th Cir. 1997).

ACCORDINGLY, the respondent’s motion to transfer the petition to the Tenth Circuit Court of Appeals [Docket #19] is GRANTED.

IT IS SO ORDERED this 3rd day of June 2008.


RONALD A. WHITE
UNITED STATES DISTRICT JUDGE